

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NEW COLT HOLDING CORP., <i>et al.</i> ,	:	
Plaintiffs,	:	
	:	
-vs-	:	Civ. No. 3:02cv173 (PCD)
	:	
RJG HOLDINGS OF FLORIDA, INC., <i>et al.</i> ,	:	
Defendants.	:	
	:	

**RULING ON MOTION FOR LEAVE TO SERVE SUPPLEMENTAL
INTERROGATORIES AND MOTION FOR COSTS**

Defendant AWA International, Inc. (“AWA”) moves for leave to serve supplemental interrogatories and for costs pursuant to FED. R. CIV. P. 37. The motion to serve supplemental interrogatories is **granted** and the motion for costs is **denied**.

The ruling on the motion to compel, from which the present issue arises, provided that the substance of the interrogatories was legally proper but that the interrogatories were improper as a matter of form. It was suggested “[t]he matter could be resolved through a single deposition of one of plaintiffs’ subject matter experts ”but “[w]hether such is the most appropriate course of action is left to the discretion of the parties.” The ruling concluded by providing that “[a]bsent such a resolution, AWA will be permitted to move for permission to file over twenty-five interrogatories, in the usual form, referring to the interrogatories on file, without refiling the same.”

Defendant AWA now seeks leave to serve its interrogatories, alleging that it has been unable to reach an agreement with plaintiffs as to the disputed discovery. Plaintiffs respond that the interrogatories have been answered through previous depositions.

Although plaintiffs refer to depositions that purportedly address the proposed interrogatories, it is not apparent that the depositions completely answer all aspects of the interrogatories. The discovery sought is not necessarily duplicative as the interrogatories generally seek more detail than plaintiffs' presently offer as complete responses, nor is it overly burdensome as plaintiffs' argument establishes that knowledgeable experts have been identified capable of answering the interrogatories in full. As such, it is not apparent that the proposed discovery is in any way inconsistent with FED. R. CIV. P. 26(b)(2). *See* FED. R. CIV. P. 33(a). AWA is granted leave to serve the proposed interrogatories.

AWA will not, however, be granted costs under the circumstances. AWA's motion to compel was denied, thus no discovery order could be violated as is required for an award of costs. *See* FED. R. CIV. P. 37(b)(2). Suggestions in the ruling denying the motion to compel will not be construed as an order.

Defendant AWA's motion for leave to serve supplemental interrogatories (Doc. No. 92-1) is **granted** and its motion for costs (Doc. No. 92-3) is **denied**. The motion for extension of time (Doc. No. 92-2) is **denied as moot**.

SO ORDERED.

Dated at New Haven, Connecticut, April ___, 2003.

Peter C. Dorsey
United States District Judge